First City National Bank of Beaumont

505 Orleans P.O. Box 3391 Beaumont, Texas 77704

(409) 838-9268

Barry Zerkle

Vice President

14532 RECORDATION NO._____Fied 1475

January 2, 1985

JAN 7 1985 · 10 15 AM

FIRSTCITY

INTERSTATE COMMERCE COMMISSION

Secretary Interstate Commerce Commission Documents for Recordation Washington, D.C. 20423

Dear Secretary:

I have enclosed an original and one copy of the document described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

This document is a security agreement, a primary document, dated December 17, 1984.

The names and addresses of the parties to the documents are as follows:

Bank:

First City National Bank of Beaumont

Post Office Box 3391 Beaumont, Texas 77704

ATTENTION: Mr. Barry Zerkle

Borrower:

William F. Scott and Richard R. Scott

Post Office Box 2725

Port Arthur, Texas 77643

A description of the equipment covered by the document follows:

Type of Equipment:

Railroad cars

AAR Designation:

4000 Cubic foot, 100 ton gondola

coal cars. Rotary cupplers.

Identifying Marks:

TX TX 4041--4050

Number of Cars:

10

Page 2 ICC 01-02-85

A fee of \$50.00 is enclosed. Please return the original and any extra copies not needed by the Commission for recordation with evidence of recordation to:

Mr. Barry Zerkle First City National Bank of Beaumont Post Office Box 3391 Beaumont, Texas 77704

A short summary of the document to appear in the index follows:

Security Agreement between:

First City National Bank of

Beaumont

Post Office Box 3391

Beaumont, Texas

AND

William F. Scott and Richard

R. Scott

Post Office Box 2725

Port Arthur, Texas 77643

Dated:

December 17, 1984

Covering:

10, 4000 cubic foot, 100 ton

gondola coal cars with designation

TX TX 4041--4050.

Sincerely,

Barry L. Zerkle

Senior Vice President

BLZ/tjm

Enclosures

Interstate Commerce Commission Washington, D.C. 20423

OFFICE OF THE SECRETARY

Berry Zerkle First City Natl. Bank Of Bealmont P.O.Box 3391 Beaumont, Texas 77704

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 1/7/85 10:15am at and assigned rerecordation number(s). 14532

Sincerely yours,

Enclosure(s)

A532 SECURITY AGR	REEMENT ner Property
Section 1. Security Interest. JAN 7 1985 · 10 15 AM	DECEMBER 1719_84
1.01 Debtor: (Name and Address) NIERSTATE COMMERCE COMMISSION	Secured Party:
WILLIAM F. SCOTT AND RICHARD R. SCOTT P. O. BOX 2725 PORT ARTHUR, TX 77643	FIRST CITY NATIONAL BANK OF BEAUMONT 505 ORLEANS BEAUMONT, TX 77701
1.02 The Obligations secured by this Security Agreement are those of Debtor and	d, if of someone else, of:
1.03 Collateral: The Collateral shall include all property referred to in the definit out limitation, one or more of the following items which are checked or otherwise (a) All of Debtor's	tion of ''Collateral'' in Section 2.04, and specifically shall include, with indicated to be included:
including, without limitation, any equipment or other goods specified (b) The following equipment or other goods: Description	d in subsection 1.03 (b).
TYPE EQUIPMENT: RAILROAD CARS AAR DESIGNATION: 4000 CUBIC FOOT ROTARY CUPPLERS IDENTIFYING MARKS: TX TX 4041-40 NUMBER OF CARS: 10	, 100 TON GONDOLA COAL CARS,
products by a farmer. (d) Goods used or bought for use primarily for personal, family or	counts or general intangibles arising from or related to the sale of farm household purposes. urnished under contracts of service, or, if such goods are raw materials,
work in progress or materials used or consumed in a business. (f) Goods which are mobile and which are of a type normally used (g) Goods which may be affixed to other real or personal property	I in more than one jurisdiction.
(h) Goods which are covered by or subject to any certificate of certificates, documents or receipts are a part of the Collateral and incl	title, document of title, warehouse receipt or other document. Such ude, without limitation, the following:
1.04 With respect to any Collateral which is not covered by a certificate of titl located or shall be located only in the following states or foreign countries: SYM TRANSPORTATION CO., HARRIS COUNTY, TEXAS N/A	S BAYOU SITE OF TEXAS TX TX MARTHE
1.05 If any Collateral is or will become attached or affixed to any real or perso personal property is owned and described as follows: N/A Owner: N/A	nal property not subject to this Security Agreement, such other real or
Description: N/A N/A	
N/A 1.06 Debtor hereby grants to Secured Party a security interest in, general lien up and the performance by Debtor of all the terms and agreements of Debtor pursuar transaction giving rise to this Security Agreement.	on, and right of set-off against the Collateral to secure the Obligations, at to this Security Agreement or of any Obligor in connection with the
Section 2. Definitions. 2.01 "Debtor" shall mean the party described as Debtor in Section 1.01, and Section 1.01.	
2.02 "Obligations" shall mean all present and future loans, advances, liabilities, of other person or entity described in Section 1.02 to Secured Party, and any and all thereof, whether evidenced by any note or other instrument or agreement, whether ment, loan, guaranty, indemnification or otherwise, whether direct or indirect, incluor participation, absolute or contingent, due or to become due. The Obligations ind any other sums incurred by Secured Party in connection with the execution.	renewals, extensions for any period, rearrangements or enlargements or arising by an extension of credit, letter of credit, overdraft, endorse-

hereunder, or under any other agreement with Debtor and/or with any other person or entity described in Section 1.02.

"General Intangibles" shall mean all personal property other than goods, accounts, chattel paper, documents, instruments and money. Such personal property (excluding the other property referred to in the preceding sentence) shall include, without limitation, all (i) contractual rights, rights to performance, and claims for damages, refunds (including tax refunds) or other monies due or to become due, (ii) orders, franchises, permits, certificates, licenses, consents, exemptions, variances, authorizations or other approvals by any governmental agency or court, (iii) consulting, engineering and technological information and specifications, design data, patent rights, trade secrets, literary rights, copyrights, trademarks, labels, trade names and other intellectual dissimilar to the foregoing.

2.04 "Collateral" shall mean (i) all property, wherever located, referred to in Section 1.03 (by checking or writing in any blank space provided therein); (ii) in the event that subsection 1.03(b) has not been checked or otherwise marked in the blank space provided therein, all Debtor's equipment as well as any other items which are checked or otherwise indicated to be included in the Collateral; (iii) all General Intangibles related to any property referred to in Section 1.03 or this Section 2.04; (iv) any related or additional property from time to time delivered to or deposited with Secured Party by or for the account of Debtor; (v) all certificates of title or other documents evidencing ownership or possession of or otherwise relating to any property referred to

THIS SECURITY AGREEMENT INCLUDES PROVISIONS ON THE REVERSE SIDE OF THIS PAGE AND ON ADDITIONAL PAGES, ALL OF WHICH ARE PART OF THIS SECURITY AGREEMENT.

WILLIAM F. SCOTT AND RICHARD R. SCOTT

- 4.20 Debtor shall at all times keep the Collateral, including proceeds, or cause it to be kept (when in the possession of warehousemen, bailees, agents, independent contractors or other third persons), separate and distinct from other property (except as to the attachment of fixtures to real estate).
- Section 5. Defaults. Any of the following events shall be considered an Event of Default under this Security Agreement:
- Debtor or any Obligor defaults in any payment due and owing pursuant to the Obligations.
- 5.02 Any representation or warranty made by Debtor or any Obligor to Secured Party proves to have been incorrect in any material respect as of the date thereof.
- 5.03 Default is made by Debtor or any Obligor in the performance of any covenants or agreements contained in this Security Agreement or in any other document now or hereafter executed in connection with or as security for the Obligations.
- 5.04 The sale, assignment, distribution, transfer or granting of a lien on any of the Collateral to or in favor of any party other than Secured Party, unless otherwise expressly permitted by this Security Agreement or in writing by Secured Party.
- The violation by Debtor or any Obligor of, or the failure of the Collateral to comply with, any applicable law, statute, ordinance, regulation or
- 5.06 The loss, theft, substantial damage to or destruction of the Collateral or of any material portion thereof (whether or not covered by insurance).
- 5.07 The entry of a judgment, issuance of an injunction, order of attachment, or any other process against Debtor or any Obligor or the Collateral which in the sole opinion of Secured Party impairs Debtor's (or any such Obligor's) ability to pay or perform the Obligations.
- Debtor or any Obligor shall respectively:

 (a) die, dissolve or otherwise terminate its existence in its form as of the date hereof;
 (b) become insolvent or suffer a business failure;
 (c) have a custodian, receiver or agent appointed or authorized to take charge of its properties;
 (d) make an assignment for the benefit of creditors or call a meeting of creditors for the composition of debts; or be subject to the commencement of any proceeding in bankruptcy or under other insolvency laws. In the sole opinion of Secured Party, there is any deterioration, impairment, decline in character or value, or material adverse change (whether or reasonably anticipated) in either:
- actual or reasonably anticipated) in either:

 (a) the assets, operations or conditions of Debtor or any Obligor; or any part of the Collateral or any other property subject to a lien in favor of Secured Party as security for the Obligations that causes the Collateral or such other property in the judgment of Secured Party to become unsatisfactory as to character or value.

 5.10 Any guaranty or surety executed in connection with the Obligations shall be terminated or revoked, or payment shall be refused under any letter of credit securing any or all of the Obligations or any such letter of credit shall expire without the written consent of Secured Party, or any event occurs which in the sole opinion of Secured Party would materially and adversely affect Debtor's or any Obligor's ability to pay or perform the Obligations.

 5.11 Default by Debtor or any Obligor in any payment of principal of or interest on any other indebtedness, guaranty or other obligation (whether to Secured Party or others) beyond any period of grace provided with respect thereto, or in the performance of any other agreement, term or condition if the effect of such default is to cause such obligation to become due on demand or prior to its stated maturity, whether or not such default or failure to perform should be waived by the holder(s) of such obligation or such trustee(s).

Section 6. Rights, Duties and Powers of Secured Party.

- 6.01 Secured Party may enforce its rights hereunder without prior judicial process or judicial hearing, and to the extent permitted by law, Debtor expressly waives any and all legal rights which might otherwise require Secured Party to enforce its rights by judicial process. Debtor recognizes and concedes that such non-judicial remedies are consistent with usage of trade, are responsive to commercial necessity, and are the result of bargain at arms' length.
- 6.02 Debtor hereby grants to Secured Party, in connection with the protection, exercising or assuring of Secured Party's rights, interests and remedies hereunder, the right to receive, change the address for delivery, open and dispose of mail addressed to Debtor, and to execute, assign and endorse negotiable and other instruments for the payment of money, documents of title or other evidences of payment, shipment or storage for any form of Collateral on behalf of and in the name of Debtor.
- 6.03 Secured Party may, at its option, discharge any taxes, liens or security interests or other encumbrances at any time levied or placed on the Collateral, may pay for insurance on the Collateral and may pay for the maintenance and preservation of the Collateral. Debtor agrees to reimburse Secured Party immediately and without demand for any payment so made, plus interest thereon at the Highest Lawful Rate.
- 6.04 Debtor hereby irrevocably appoints Secured Party as Debtor's true and lawful agent and attorney-in-fact, with full power of substitution, in Secured Party's name or Debtor's name or otherwise, but at Debtor's cost and expense and without notice to Debtor, to obtain, adjust, sell and cancel any insurance with respect to the Collateral, and endorse any draft drawn by insurers of the Collateral. Secured Party may apply any proceeds of such insurance to the Obligations (whether or not due).
- 6.05 Secured Party may transfer any or all of the indebtedness evidenced by the Obligations, and upon any such transfer Secured Party may transfer any or all of the indebtedness evidenced by the Obligations, and upon any such transfer Secured Party may transfer any or all of the Collateral shall be fully discharged thereafter from all liability therefor. Any transferee of the Collateral shall be vested with all rights, powers and remedies of Secured Party hereunder. With respect to any partial transfer of Collateral, Secured Party shall retain all rights, powers and remedies hereby given with respect to the retained Collateral. Secured Party may at any time deliver any or all of the Collateral to Debtor whose receipt shall be a complete and full acquittance for the Collateral so delivered, and Secured Party shall thereafter be discharged from any liability with respect to such Collateral.
- 6.06 In connection with any transfer or sale (to Secured Party or any other person or entity) of the Collateral, Secured Party is hereby granted a transferable license or other right to use, without any charge, any of Debtor's labels, patents, copyrights, trade names, trade secrets, trademarks or other similar property in completing production, advertising or selling such Collateral, and Debtor's rights under all licenses and franchise agreements shall inure to the benefit of Secured Party and any transferee of all or any part of the Collateral.
- 6.07 The rights, powers and remedies of Secured Party hereunder shall be in addition to all rights, powers and remedies given by law or in equity. The exercise by Secured Party of any one or more of the rights, powers and remedies herein shall not be construed as a waiver of any other rights, powers and remedies. Regardless of whether or not the Uniform Commercial Code is in effect in the jurisdiction where such rights, powers and remedies are asserted, Secured Party shall have the rights, powers and remedies of a secured party under the Code. If any of the Obligations are given in renewal, extension for any period or rearrangement, or applied toward the payment of debt secured by any lien, Secured Party shall be, and is hereby, subrogated to all the rights, titles, interests and liens securing the debt so renewed, extended, rearranged or paid.
- 6.08 Secured Party at any time may forward to Debtor a statement of accounts showing the outstanding indebtedness pursuant to the Obligations, including all charges, expenses and items chargeable to Debtor in connection therewith, and any payment by Debtor against the loans (including proceeds collected by Secured Party and applied on the Obligations), and the total of Debtor's indebtedness as of the date thereof, and such statement of account shall be deemed correct in all respects and shall be conclusively binding upon Debtor, unless Debtor makes specified objections to the same in writing within five (5) days from the date such statement is sent to Debtor.
- 6.09 To the extent that Secured Party has advanced or will advance funds to or for the account of Debtor to enable Debtor to purchase or otherwise acquire specific types or items of Collateral, Secured Party may at its option pay such funds (i) directly to the person from whom Debtor will make such purchase or acquire such rights or (ii) to Debtor, in which case Debtor covenants promptly to pay the same to such person and forthwith furnish to Secured Party, on request, evidence satisfactory to Secured Party that such payment has been made from the funds so provided by Secured Party for such payment.
- such payment.

 6.10 The powers conferred upon Secured Party by this Security Agreement are to protect its interest in the Collateral and shall not impose any duty upon Secured Party to exercise any such powers. Debtor hereby agrees that Secured Party shall not be liable for, nor shall the indebtedness evidenced by the Obligations be diminished by, Secured Party's failure to collect upon, foreclose, sell, seize or otherwise obtain value for the Collateral, or any part thereof, or for any delay in so doing, and Secured Party shall not be under any obligation to take any action in connection therewith (except as may be expressly required by Section 9,505 of the Code, if applicable). Secured Party shall use reasonable care in the custody and preservation of any Collateral in its possession but need not take any steps to keep the Collateral identifiable. Secured Party shall have no duty to comply with any recording, filing or other legal requirements necessary to establish or maintain the validity, priority or enforceability of Secured Party's rights in or to any of the Collateral.
- 6.11 Time shall be of the essence for the performance of any act under this Securety Agreement or the Obligations, but Secured Party's acceptance of partial or delinquent payments or any forbearance, failure or delay by Secured Party in exercising any right, power or remedy hereunder shall not be deemed a waiver of any obligation of Debtor or any Obligor, or of any right, power or remedy of Secured Party; and no partial exercise of any right, power or remedy shall preclude any other or further exercise thereof. Secured Party may remedy any default hereunder or in connection with the Obligations without waiving the defaults or remedied, or waive any default hereunder or in connection with the Obligations without waiving any other default including, without limitation, other occurrences of the same default, nor shall such action by Secured Party waive any prior or subsequent default.
- 6.12 If Debtor is not the only party liable on the Obligations or granting security therefor, Debtor (a) waives (i) any and all notice of acceptance, creation, modification, rearrangement, renewal or extension for any period of any instrument executed by such other party in connection with the Obligations, and (ii) any defense of such other party by reason of disability, lack of authorization, cessation of the liability of such other party or for any other reason and (b) authorizes Secured Party, without notice or demand and without any reservation of rights against Debtor and without affecting Debtor's liability hereunder or on the Obligations, from time to time to (x) take and hold other property, other than the Collateral, as security for the Obligations, and exchange, enforce, waive and release any or all of the Collateral, (y) apply the Collateral in the manner permitted by this Security Agreement, and (z) renew, extend for any period, accelerate, amend or modify, supplement, enforce, compromise, settle, waive or release the obligations of any Obligor or any instrument or agreement of such other party with respect to any or all of the Obligations or Collateral.
- 6.13 Secured Party shall be under no duty whatsoever to make or give any presentment, notice of dishonor, protest, demand for performance, notice of non-performance or other notice or demand in connection with any Collateral or the Obligations, or to take any steps necessary to preserve any right of against any Obligor or other person or entity. Debtor waives any right of marshaling in respect of any and all Collateral, and waives any right to require Secured Party to proceed against any Obligor or other person or entity, exhaust any Collateral or enforce any other remedy which Secured Party now has or may hereafter have against any other person or entity. Debtor hereby agrees that if Secured Party agrees to a waiver of any provision hereunder, or an exchange of or release of the Collateral, or the addition to or release of any Obligor or other person or entity, any such action shall not constitute a waiver of any of Secured Party's other rights or of Debtor's obligations hereunder.
- 6.14 Debtor hereby waives any demand, notice of default, notice of acceleration of the maturity of the Obligations, notice of intention to accelerate the maturity of the Obligations, presentment, protest and notice of dishonor as to any action taken by Secured Party in connection with this Security Agreement, any note or other document.
- Section 7. Remedies. Upon the happening and during the occurrence of any Event of Default specified in Section 5, Secured Party may take any of the following actions without notice or demand to Debtor:
- 7.01 Declare all or part of the indebtedness pursuant to the Obligations immediately due and payable and enforce payment of the same by either Debtor or any Obligor (provided however, that any partial payments by either Debtor or any Obligor pursuant to the Obligations shall not be deemed to be a payment in full of such indebtedness, or an accord and satisfaction of such indebtedness, or a waiver by Secured Party of any of its rights or remedies hereunder).
- 7.02 Exercise any rights or remedies under the Code or as may otherwise be available to Secured Party under any applicable laws or in equity.
- 7.03 Take possession of the Collateral, or at Secured Party's request, Debtor shall, at Debtor's cost, assemble the Collateral and make it available at a location to be specified by Secured Party which is reasonably convenient to Debtor and Secured Party. Secured Party may, at its option, render any equipment unusable that may be included in the Collateral, or, at Secured Party's request, Debtor will render it unusable. In any event, the risk of accidental loss or damage to, or diminution in value of Collateral shall be on Debtor, and Secured Party shall have no liability whatsoever for failure to obtain or maintain insurance, nor to determine whether any insurance ever in force is adequate as to amount or as to risk insured.
- maintain insurance, nor to determine whether any insurance ever in force is adequate as to amount or as to risk insured.

 7.04 As may be applicable, sell or lease, in one or more sales or leases, apply, set-off, collect or otherwise dispose of any or all of the Collateral in its then condition or in any commercially reasonable manner as Secured Party may elect, in a public or private transaction, at any location as deemed reasonable by Secured Party (including, without limitation, Debtor's premises), either for cash or credit or for future delivery at such price as Secured Party may deem fair, and (unless prohibited by the Uniform Commercial Code, as adopted in any applicable jurisdiction) Secured Party may be the purchaser of any or all Colltaeral so sold. Any such sale or transfer by Secured Party either to itself or to any other person shall be absolutely free from any claim or right by Debtor, including any equity or right of redemption, stay or appraisal which Debtor has or may have under any rule of law, regulation or statute now existing or hereafter adopted. It shall not be necessary that the Collateral or any part thereof be present at the location of any such sale or transfer to persons who will represent and agree that they are purchasing the Collateral for their own account and not with the view to the distribution or resale of any of the Collateral. Secured Party may, at its discretion, provide for a public sale, and any such public sale shall be held at such time to times within ordinary business hours and as such place or places as Secured Party may fix in the notice of such sale. Secured Party shall not be obligated to make any sale pursuant to any such notice.

- 4.20 Debtor shall at all times keep the Collateral, including proceeds, or cause it to be kept (when in the possession of warehousemen, bailees, agents, independent contractors or other third persons), separate and distinct from other property (except as to the attachment of fixtures to real estate).
- Section 5. Defaults. Any of the following events shall be considered an Event of Default under this Security Agreement:
- Debtor or any Obligor defaults in any payment due and owing pursuant to the Obligations.
- 5.02 Any representation or warranty made by Debtor or any Obligor to Secured Party proves to have been incorrect in any material respect as of the date thereof.
- 5.03 Default is made by Debtor or any Obligor in the performance of any covenants or agreements contained in this Security Agreement or in any other document now or hereafter executed in connection with or as security for the Obligations.
- 5.04 The sale, assignment, distribution, transfer or granting of a lien on any of the Collateral to or in favor of any party other than Secured Party, unless otherwise expressly permitted by this Security Agreement or in writing by Secured Party.
- The violation by Debtor or any Obligor of, or the failure of the Collateral to comply with, any applicable law, statute, ordinance, regulation or
- 5.06 The loss, theft, substantial damage to or destruction of the Collateral or of any material portion thereof (whether or not covered by insurance).
- 5.07 The entry of a judgment, issuance of an injunction, order of attachment, or any other process against Debtor or any Obligor or the Collateral which in the sole opinion of Secured Party impairs Debtor's (or any such Obligor's) ability to pay or perform the Obligations.
- Debtor or any Obligor shall respectively:

 (a) die, dissolve or otherwise terminate its existence in its form as of the date hereof;
 (b) become insolvent or suffer a business failure;
 (c) have a custodian, receiver or agent appointed or authorized to take charge of its properties;
 (d) make an assignment for the benefit of creditors or call a meeting of creditors for the composition of debts; or be subject to the commencement of any proceeding in bankruptcy or under other insolvency laws. In the sole opinion of Secured Party, there is any deterioration, impairment, decline in character or value, or material adverse change (whether or reasonably anticipated) in either:
- actual or reasonably anticipated) in either:

 (a) the assets, operations or conditions of Debtor or any Obligor; or any part of the Collateral or any other property subject to a lien in favor of Secured Party as security for the Obligations that causes the Collateral or such other property in the judgment of Secured Party to become unsatisfactory as to character or value.

 5.10 Any guaranty or surety executed in connection with the Obligations shall be terminated or revoked, or payment shall be refused under any letter of credit securing any or all of the Obligations or any such letter of credit shall expire without the written consent of Secured Party, or any event occurs which in the sole opinion of Secured Party would materially and adversely affect Debtor's or any Obligor's ability to pay or perform the Obligations.

 5.11 Default by Debtor or any Obligor in any payment of principal of or interest on any other indebtedness, guaranty or other obligation (whether to Secured Party or others) beyond any period of grace provided with respect thereto, or in the performance of any other agreement, term or condition if the effect of such default is to cause such obligation to become due on demand or prior to its stated maturity, whether or not such default or failure to perform should be waived by the holder(s) of such obligation or such trustee(s).

Section 6. Rights, Duties and Powers of Secured Party.

- 6.01 Secured Party may enforce its rights hereunder without prior judicial process or judicial hearing, and to the extent permitted by law, Debtor expressly waives any and all legal rights which might otherwise require Secured Party to enforce its rights by judicial process. Debtor recognizes and concedes that such non-judicial remedies are consistent with usage of trade, are responsive to commercial necessity, and are the result of bargain at arms' length.
- 6.02 Debtor hereby grants to Secured Party, in connection with the protection, exercising or assuring of Secured Party's rights, interests and remedies hereunder, the right to receive, change the address for delivery, open and dispose of mail addressed to Debtor, and to execute, assign and endorse negotiable and other instruments for the payment of money, documents of title or other evidences of payment, shipment or storage for any form of Collateral on behalf of and in the name of Debtor.
- 6.03 Secured Party may, at its option, discharge any taxes, liens or security interests or other encumbrances at any time levied or placed on the Collateral, may pay for insurance on the Collateral and may pay for the maintenance and preservation of the Collateral. Debtor agrees to reimburse Secured Party immediately and without demand for any payment so made, plus interest thereon at the Highest Lawful Rate.
- 6.04 Debtor hereby irrevocably appoints Secured Party as Debtor's true and lawful agent and attorney-in-fact, with full power of substitution, in Secured Party's name or Debtor's name or otherwise, but at Debtor's cost and expense and without notice to Debtor, to obtain, adjust, sell and cancel any insurance with respect to the Collateral, and endorse any draft drawn by insurers of the Collateral. Secured Party may apply any proceeds of such insurance to the Obligations (whether or not due).
- 6.05 Secured Party may transfer any or all of the indebtedness evidenced by the Obligations, and upon any such transfer Secured Party may transfer any or all of the indebtedness evidenced by the Obligations, and upon any such transfer Secured Party may transfer any or all of the Collateral shall be fully discharged thereafter from all liability therefor. Any transferee of the Collateral shall be vested with all rights, powers and remedies of Secured Party hereunder. With respect to any partial transfer of Collateral, Secured Party shall retain all rights, powers and remedies hereby given with respect to the retained Collateral. Secured Party may at any time deliver any or all of the Collateral to Debtor whose receipt shall be a complete and full acquittance for the Collateral so delivered, and Secured Party shall thereafter be discharged from any liability with respect to such Collateral.
- 6.06 In connection with any transfer or sale (to Secured Party or any other person or entity) of the Collateral, Secured Party is hereby granted a transferable license or other right to use, without any charge, any of Debtor's labels, patents, copyrights, trade names, trade secrets, trademarks or other similar property in completing production, advertising or selling such Collateral, and Debtor's rights under all licenses and franchise agreements shall inure to the benefit of Secured Party and any transferee of all or any part of the Collateral.
- 6.07 The rights, powers and remedies of Secured Party hereunder shall be in addition to all rights, powers and remedies given by law or in equity. The exercise by Secured Party of any one or more of the rights, powers and remedies herein shall not be construed as a waiver of any other rights, powers and remedies. Regardless of whether or not the Uniform Commercial Code is in effect in the jurisdiction where such rights, powers and remedies are asserted, Secured Party shall have the rights, powers and remedies of a secured party under the Code. If any of the Obligations are given in renewal, extension for any period or rearrangement, or applied toward the payment of debt secured by any lien, Secured Party shall be, and is hereby, subrogated to all the rights, titles, interests and liens securing the debt so renewed, extended, rearranged or paid.
- 6.08 Secured Party at any time may forward to Debtor a statement of accounts showing the outstanding indebtedness pursuant to the Obligations, including all charges, expenses and items chargeable to Debtor in connection therewith, and any payment by Debtor against the loans (including proceeds collected by Secured Party and applied on the Obligations), and the total of Debtor's indebtedness as of the date thereof, and such statement of account shall be deemed correct in all respects and shall be conclusively binding upon Debtor, unless Debtor makes specified objections to the same in writing within five (5) days from the date such statement is sent to Debtor.
- 6.09 To the extent that Secured Party has advanced or will advance funds to or for the account of Debtor to enable Debtor to purchase or otherwise acquire specific types or items of Collateral, Secured Party may at its option pay such funds (i) directly to the person from whom Debtor will make such purchase or acquire such rights or (ii) to Debtor, in which case Debtor covenants promptly to pay the same to such person and forthwith furnish to Secured Party, on request, evidence satisfactory to Secured Party that such payment has been made from the funds so provided by Secured Party for such payment.
- such payment.

 6.10 The powers conferred upon Secured Party by this Security Agreement are to protect its interest in the Collateral and shall not impose any duty upon Secured Party to exercise any such powers. Debtor hereby agrees that Secured Party shall not be liable for, nor shall the indebtedness evidenced by the Obligations be diminished by, Secured Party's failure to collect upon, foreclose, sell, seize or otherwise obtain value for the Collateral, or any part thereof, or for any delay in so doing, and Secured Party shall not be under any obligation to take any action in connection therewith (except as may be expressly required by Section 9,505 of the Code, if applicable). Secured Party shall use reasonable care in the custody and preservation of any Collateral in its possession but need not take any steps to keep the Collateral identifiable. Secured Party shall have no duty to comply with any recording, filing or other legal requirements necessary to establish or maintain the validity, priority or enforceability of Secured Party's rights in or to any of the Collateral.
- 6.11 Time shall be of the essence for the performance of any act under this Securety Agreement or the Obligations, but Secured Party's acceptance of partial or delinquent payments or any forbearance, failure or delay by Secured Party in exercising any right, power or remedy hereunder shall not be deemed a waiver of any obligation of Debtor or any Obligor, or of any right, power or remedy of Secured Party; and no partial exercise of any right, power or remedy shall preclude any other or further exercise thereof. Secured Party may remedy any default hereunder or in connection with the Obligations without waiving the defaults or remedied, or waive any default hereunder or in connection with the Obligations without waiving any other default including, without limitation, other occurrences of the same default, nor shall such action by Secured Party waive any prior or subsequent default.
- 6.12 If Debtor is not the only party liable on the Obligations or granting security therefor, Debtor (a) waives (i) any and all notice of acceptance, creation, modification, rearrangement, renewal or extension for any period of any instrument executed by such other party in connection with the Obligations, and (ii) any defense of such other party by reason of disability, lack of authorization, cessation of the liability of such other party or for any other reason and (b) authorizes Secured Party, without notice or demand and without any reservation of rights against Debtor and without affecting Debtor's liability hereunder or on the Obligations, from time to time to (x) take and hold other property, other than the Collateral, as security for the Obligations, and exchange, enforce, waive and release any or all of the Collateral, (y) apply the Collateral in the manner permitted by this Security Agreement, and (z) renew, extend for any period, accelerate, amend or modify, supplement, enforce, compromise, settle, waive or release the obligations of any Obligor or any instrument or agreement of such other party with respect to any or all of the Obligations or Collateral.
- 6.13 Secured Party shall be under no duty whatsoever to make or give any presentment, notice of dishonor, protest, demand for performance, notice of non-performance or other notice or demand in connection with any Collateral or the Obligations, or to take any steps necessary to preserve any right of against any Obligor or other person or entity. Debtor waives any right of marshaling in respect of any and all Collateral, and waives any right to require Secured Party to proceed against any Obligor or other person or entity, exhaust any Collateral or enforce any other remedy which Secured Party now has or may hereafter have against any other person or entity. Debtor hereby agrees that if Secured Party agrees to a waiver of any provision hereunder, or an exchange of or release of the Collateral, or the addition to or release of any Obligor or other person or entity, any such action shall not constitute a waiver of any of Secured Party's other rights or of Debtor's obligations hereunder.
- 6.14 Debtor hereby waives any demand, notice of default, notice of acceleration of the maturity of the Obligations, notice of intention to accelerate the maturity of the Obligations, presentment, protest and notice of dishonor as to any action taken by Secured Party in connection with this Security Agreement, any note or other document.
- Section 7. Remedies. Upon the happening and during the occurrence of any Event of Default specified in Section 5, Secured Party may take any of the following actions without notice or demand to Debtor:
- 7.01 Declare all or part of the indebtedness pursuant to the Obligations immediately due and payable and enforce payment of the same by either Debtor or any Obligor (provided however, that any partial payments by either Debtor or any Obligor pursuant to the Obligations shall not be deemed to be a payment in full of such indebtedness, or an accord and satisfaction of such indebtedness, or a waiver by Secured Party of any of its rights or remedies hereunder).
- 7.02 Exercise any rights or remedies under the Code or as may otherwise be available to Secured Party under any applicable laws or in equity.
- 7.03 Take possession of the Collateral, or at Secured Party's request, Debtor shall, at Debtor's cost, assemble the Collateral and make it available at a location to be specified by Secured Party which is reasonably convenient to Debtor and Secured Party. Secured Party may, at its option, render any equipment unusable that may be included in the Collateral, or, at Secured Party's request, Debtor will render it unusable. In any event, the risk of accidental loss or damage to, or diminution in value of Collateral shall be on Debtor, and Secured Party shall have no liability whatsoever for failure to obtain or maintain insurance, nor to determine whether any insurance ever in force is adequate as to amount or as to risk insured.
- maintain insurance, nor to determine whether any insurance ever in force is adequate as to amount or as to risk insured.

 7.04 As may be applicable, sell or lease, in one or more sales or leases, apply, set-off, collect or otherwise dispose of any or all of the Collateral in its then condition or in any commercially reasonable manner as Secured Party may elect, in a public or private transaction, at any location as deemed reasonable by Secured Party (including, without limitation, Debtor's premises), either for cash or credit or for future delivery at such price as Secured Party may deem fair, and (unless prohibited by the Uniform Commercial Code, as adopted in any applicable jurisdiction) Secured Party may be the purchaser of any or all Colltaeral so sold. Any such sale or transfer by Secured Party either to itself or to any other person shall be absolutely free from any claim or right by Debtor, including any equity or right of redemption, stay or appraisal which Debtor has or may have under any rule of law, regulation or statute now existing or hereafter adopted. It shall not be necessary that the Collateral or any part thereof be present at the location of any such sale or transfer to persons who will represent and agree that they are purchasing the Collateral for their own account and not with the view to the distribution or resale of any of the Collateral. Secured Party may, at its discretion, provide for a public sale, and any such public sale shall be held at such time to times within ordinary business hours and as such place or places as Secured Party may fix in the notice of such sale. Secured Party shall not be obligated to make any sale pursuant to any such notice.

8.19 This Security Agreement may be executed in two or more counterparts, and it shall not be necessary that the signatures of all parties hereto be contained on any one counterpart neteof. Each counterpart shall become effective upon the execution hereof by Debtor and delivery of the same to Secured Party, and it shall become effective upon the execution hereof by Debtor and delivery of the same to Secured Party. Agreement in writing sexecuted jointly by Debtor and Secured Party and may be supplemented only by an instrument in writing sexecuted jointly by Debtor and Secured Party and may be supplemented only by docu-

8.18 Any section titles contained in this Security Agreement are for convenience only, and are without substantive meaning and are not a part of this security descement.

8.16 Debtor hereby authorises and directs Secured Party to disburse the proceeds of any loans made by Secured Party to Debtor to any agent designation and secured party to without the corporation, to any officer, director or any party to whom such officer or directive may be made by either oral or written instructions to Secured Party.

8.17 If more than one party executes this Security Agreement as Debtor, unless otherwise agreed in writing by Secured Party, each such party executing this Security Agreement shall be jointly and severally liable hereunder and the Collateral shall consist of the property of such parties described in Sections 1.03 and 2.04 whether owned individually or collectively.

8.15 Where appropriate, the use of any singular number or noun in this Security Agreement shall be construed to include the plural, and vice versa. Use of the neuter gender, as appropriate.

8.14 This Security Agreement will remain in full force and effect regardless of whether the liability of any other Obligor may have ceased, or irrespective of the validity or enforceability of any Obligor, or the reorganization, death or bankruptcy of Debtor, or any other event or proceeding affecting Debtor or any pashkruptcy of any Obligor, or the reorganization, death or bankruptcy of Debtor, or any other event or proceeding affecting Debtor or any other event or proceeding affect or any other event or proceeding affecting Debtor or any other event or proceeding affect or any other event or proceeding affect or any other event or any other

or assigns and snat three benefit of Secured Party, its successors and assigns.

3.12 This Security Agreement shall constitute a continuing security agreement, and all representations and warranties, covenants and agreements half or structure as well as existing transactions. Provisions of this Security Agreement, unless by their terms exclusive, shall be in addition to other agreements between the parties.

8.13 Except as may be applicable pursuant to Section 9.505 of the Code, no action taken or omission to act by Secured Party hereunder, including, without limitation, any action taken or inaction pursuant to Section 7 (Remedies), shall be deemed to be in full satisfaction of the Obligations, of the Obligations of the Oblig

8.10 The Obligations shall conclusively be presumed to have been entered into in reliance upon this Security Agreement. All deslings between Debtor and Security and security

8.09 If any provision of this Security Agreement is or becomes unenforceable for any reason, Debtor and Secured Party shall promptly meet and negoting are a substitute provision thereof, but all of the remaining provisions of this Security Agreement shall remain in full force and effect.

8.08 The failure to check or otherwise mark in the appropriate blank space any subsection 1.03 shall not be construed to limit or diminish in any way the Collateral in which Secured Party is granted a security interest pursuant to the terms of this Security Agreement. In the event that appropriate plank spaces in Section 1.03 have not been checked or otherwise market, the Collateral in which Security Agreement. In the event this appropriate plank spaces in Section 1.03 have not been checked or otherwise market, the Collateral in which is otherwise described, referred to or indicated to to be included. In addition, the execution, delivery, or filing from time to time of supplements, amendaments or financing statements containing more specific descriptions of now existing or hereafter acquired Collateral shall in no way limit or diminish the security interest herein granted.

#Wint approve to the description and the security interest granted hereby shall be construed in accordance with and governed by the laws of the few of any other live laws of any other live lates of any other live lates of any other live described and secured Party's offices are consents to and submits to in personan jurisdiction and venue in the state district and county courts of the county wherein Secured Party's offices are located at the address specified in Section 1.01. Debtor search secured Party's offices are located at the address specified in Section 1.01. Debtor search secured Party's offices are located at the address specified in Section 1.01. Debtor search search of the description and search shall alter the search search of the description of the description of the search search of the search se

taken hereafter as security for the Obligations impair or affect this Security Agreement.

3.6.6 It is the intention of the point and according articly to use a security of the Contrary, in this Security Agreement articlar to use a security that it is agreed as Follows: (i) the aggregate of all contrared or in any other green articly to use to adjustions, it is agreed as Follows: (i) the aggregate of all contrared or in the white the propose of according to the contrary in this Security Agreement or inder any of such other and any excess shall be credited by Secured Party and make in contrastic or otherwise; in connection with the case shall be credited by Secured Party and the principal amount of the Obligations (ii) in the event that the maturity of the Obligations (ii) in the event depth or the purpose of accordance of the Obligations (iii) in the event that the maturity of the Obligations (iii) in the event that the maturity of the Obligations (but the stream or contracted described in Section 1.02, as the cases shall be credited by Secured Party and reserved charged or sended the propose of determining the Highest Lawly like event that the maturity of the Obligations shall have been or would thereby be paid in full, refunded by Secured Party and present or other person or wonly person or contrived described in Section 1.02, as the case may be); and (ii) in the event that the maturity of the Obligations shall have been or would thereby be paid in full, refunded by Secured Party and present or other person of the obligations fort, propose of determining the Highest Lawly Inverse by be paid in full, refunded by Secured Party to Debto or the prepared consideration or prepared and the propose of determining the Highest Lawly In the event that the maturity of the Obligations shall have been or would thereby person to or or this described the spin shall be credited by Secured Party and presence of the polications shall have been or would thereby as the spin shall be credited by Secured Party or the propose of det

8.05 The execution and delivery of this Security Agreement shall not in any manner affect any other security for the Obligations, nor shall any security taken hereafter as security for the Obligations, nor shall any security 8.04 If any sale or transfer of Collateral by Secured Party results in full satisfaction of the Obligations, and after such sale or transfer and discharge there remains a surplus of proceeds, Secured Party will deliver to Debtor such excess proceeds in a commercially reasonable time; provided however, that pursuant to this Security Agreement, nor the execution hereof shall be construed as relieving any party liable for the Obligations from any liability or pursuant to this Security Agreement, nor the execution hereof shall be construed as relieving any party liable for the Obligations from any liability or deficiency thereon.

8.03 Secured Party shall be deemed to have possession of any Collateral in transit to it or set apart for it or any of its agents, affiliates or correspondents.

8.02 A photocopy or other reproduction of this Security Agreement or any financing statement covering the Collateral shall be sufficient as a financing statement, and the same may be filed with any appropriate filling authority for the purpose of perfecting Secured Party's security interest in the Collateral.

8.01 Any notice required or permitted to be given under or in connection with this Security Agreement shall be in writing and shall be mailed by first class class or express mail, postage prepaid, or sent by telex, telegram, t Section 8. Miscellaneous Provisions.

7.11 Motwithstanding anything to the contrary in this Security Agreement, if any applicable provision of any law requires Secured Party to give reasonable notice of any sale or disposition or other action, Debtor hereby agrees that five (5) days' prior written notice shall constitute reasonable notice thereof.

07.70 If any action of Secured Party hereunder results in a partial reduction of the Obligations, such action will not release Debtor from its liability to Secured Party for any unpaid Obligations, including costs, charges and expenses incurred in the liquidation of Collateral, together with interest thereon, and the same shall be immediately due and payable to Secured Party at Secured Party's address recited above.

Apply and set-off (a) any deposits of Debror held by Secured Party; (b) all claims of Debror against Secured Party, now or hereafter existing; (c) any other property, rights or interest of Debror which come into the possession or used you make the constrol of Secured Party, and (d) the proceeds of any of the foregings as if the same were included in the Collastresh. Secured Party agrees to notify Debror promptly after any such as a population. The rights of Secured Party to give any such notice makes including, without limitation, any other rights of Secured Party and addition to any other rights and the medies, including, without limitation, any other rights of set-off.

If any agrees of Secured Party to give any such notice medies, including, without limitation, any other rights of set-off.

7.08 Make a written recrods to the time, piace and terms of any other for or agent of Secured Party.

7.08 Make a written recrod at or the non-separate of any sale or transfer permitted hereunder having been duly given, or as to any other foreignions, or as to notice of the time, piace and terms of any sale or transfer permitted hereunder having been duly done by Secured Party in any bill of sale, assignment or other instrument executed by Secured Party in connection with the foreigned.

7.00 Approximately and such written record of facts by Secured Party shall be taken as prima facile evidence of the truth of the facts so stated and recited. 7.07 Appoint any party as agent to perform any act or acts necessary or incident to any sale or transfer by Secured Party of the Collateral. Addition-saly, any sale or transfer hereunder may be conducted by an auctioneer or any officer or agent of Secured Party.

O. Seize all books and records of Debtor persining to the Collateral. Secured Party shall have the authority to enter upon any real property or improvements thereon, and remove the same theretorm without isbilling.

O.G. Apply proceeds of the disposition of Collateral to the Obligations in any manner elected by Secured Party and permitted by the Code. Such application may include, without limitation, the reasonable expenses of retaking, holding, preparing for sale or other disposition, and the reasonable attorneys region may include, without limitation, the reasonable account and the code such as the code such

Sections of the May William or place to which the same may belong the event that any of the Collateral so that which the summer of the Collateral so the solution that the summer of the Collateral solution that the summer of the Collateral solution that the summer of the Collateral solution the collateral solution that the collateral solution the collateral solution that the collateral solut